



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/822,484

04/12/2004

Joseph M. Asher

069547.0157

3028

5073

7590

11/20/2007

BAKER BOTTS L.L.P.

2001 ROSS AVENUE

SUITE 600

DALLAS, TX 75201-2980

EXAMINER

COLBERT, ELLA

ART UNIT

PAPER NUMBER

3694

NOTIFICATION DATE

DELIVERY MODE

11/20/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com

glenda.orrantia@bakerbotts.com

Office Action Summary

Application No.

10/822,484

Applicant(s)

ASHER ET AL.

Examiner

Ella Colbert

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/07/07 & 6/29/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-47 are pending in this communication filed 09/05/07 entered as Response After Non-Final Action.
2. The IDS filed 6/07/07 and 6/29/07 have been considered and entered.
3. The objection to the title has been overcome by the amendment in the response filed 2/28/08 and is hereby withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(a/b) as being anticipated by (US 2004/0229671) Stronach.

Claim 1. Stronach teaches, A computer-implemented method performed using a computer system for conducting an exchange of an activity entry between a buyer and a seller the computer system comprising one or more processing units and one or more memory units, the method comprising: determining a first set of entries in an activity, at least one entry to be determined a winning entry based on an occurrence of an event associated with the activity (page 3, col. 1 [0044]-col. 2 [0048]); using the computer executing a first initial distribution of the first set of entries; and using the computer system, conducting trading, of at least one of the entries, between at least one buyer

and at least one seller (page 4, col. 1 [0051]-col. 2 [0059], page 7, col. 2 [0075]-page 8, line 10 and [0077] –col. 2, line 8).

Claim 2. Stronach teaches, The method of claim 1, wherein the step of conducting trading comprises: receiving, from a first user, at least one buy request associated with at least one entry of the first set of entries (page 2 [0042] –page 3, col. 1, line 13); receiving, from a second user, at least one sell request associated with the at least one entry of the first set of entries (page 5, col. 1 [0060]); matching the at least one buy request with the at least one sell request; and transferring the at least one entry of the first set of entries from the second user to the first user (page 8, col. 2 [0079] – page 9, col. 1[0080]-[0082]).

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over (US 2004/0229671) Stronach in view of (US 6,067,532) Gebb.

Claim 3. Stronach teaches, The method of claim 1, wherein the step of conducting trading comprises: receiving, from a first user, a buy order associated with at least one entry of the first set of entries (page 7, col. 1 [0075] –page 8, line 10). Stronach failed to teach, receiving, from a second user, a short sale order associated with the at least one entry of the first set of entries; matching the buy order with the at least one short sale order to create a short sale; settling, at a predetermined time, the short sale). Gebb teaches, receiving, from a second user, a short sale order associated with the at least one entry of the first set of entries (col. 6, lines 40-63); matching the buy order with the at least one short sale order to create a short sale (col.

6, line 64-col. 7, line 13 and lines 42-52); settling, at a predetermined time, the short sale (col. 8, line 3-29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Gebb in Stronach because such an incorporation would allow Stronach to facilitate wagering on race events and other events.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 2004/0229671) Stronach in view of (US 6,067,532) Gebb US 2002/0082969 A1) O'Keeffe et al, hereafter O'Keeffe.

Claim 4. Stronach teaches, wherein executing a first initial distribution comprises conducting a lottery for the first set of entries (page 6, col. 2, paragraph [0070] –[0071]).

Claim 5. Stronach and Gebb failed to teach, wherein executing a first initial distribution comprises conducting an auction for the first set of entries. O'Keeffe teaches, wherein executing a first initial distribution comprises conducting an auction for the first set of entries (page 3, col. 2, paragraph [0032]–[0033]).

Claim 6. Stronach failed to teach, The method of claim 1, further comprising, executing a second initial distribution of a second set of entries for the first activity and conducting trading of at least one of the second set of entries. Gebb teaches, The

method of claim 1, further comprising, executing a second initial distribution of a second set of entries for the first activity and conducting trading of at least one of the second set of entries (col. 6, lines 40-63 –second set of redistribution entries).

Claim 7. Stronach failed to teach, The method of claim 6, wherein the trading of entries of the first set of entries is discrete from the trading of entries of the second set of entries. Gebb teaches, The method of claim 6, wherein the trading of entries of the first set of entries is discrete from the trading of entries of the second set of entries (col. 6, line 64-col. 7, line 13).

Claim 8. Stronach failed to teach, The method of claim 6, wherein the trading of entries of the first set of entries is commingled with the trading of the second set of entries. Gebb teaches, The method of claim 6, wherein the trading of entries of the first set of entries is commingled with the trading of the second set of entries (col. 7, lines 20-41).

Claim 9. Stronach failed to teach, The method of claim 1, further comprising: executing a second initial distribution of a second set of entries for a second activity and conducting trading of at least one of the second set of entries. Gebb teaches, The method of claim 1, further comprising: executing a second initial distribution of a second set of entries for a second activity and conducting trading of at least one of the second set of entries (col. 8, lines 12-43).

Claim 10. Stronach failed to teach, The method of claim 9, wherein the first activity is the same type of activity as the second activity. Gebb teaches, The method of

claim 9, wherein the first activity is the same type of activity as the second activity (col. 8, lines 12-43).

Claim 11. Stronach failed to teach, The method of claim 9, wherein the first activity is a different type of activity from the second activity. Gebb teaches, The method of claim 9, wherein the first activity (col. 5, lines 25-65) is a different type of activity from the second activity (col. 8, lines 12-43).

Claim 12. this dependent claim is rejected for the similar rationale as given above for claim 7.

Claim 13. this dependent claim is rejected for the similar rationale as given above for claim 8.

Claim 14. Stronach and Gebb failed to teach, wherein the trading of the first set of entries comprises conducting an auction of at least one entry of the first set of entries. O'Keeffe teaches; wherein the trading of the first set of entries comprises conducting an auction of at least one entry of the first set of entries (page 9, col. 1, paragraph [0101]).

Claim 15. Stronach and Gebb failed to teach, conducting the auction comprises receiving from a first user a request to auction at least one entry held by the first user, and receiving from a second user a first bid request for the at least one entry. O'Keeffe teaches, conducting the auction comprises receiving from a first user a request to auction at least one entry held by the first user, and receiving from a second user a first bid request for the at least one entry (page 3, col. 2, [0032]).

Claim 16. Stronach and Gebb failed to teach, receiving from a third user a second bid request higher than the first bid request and transferring the at least one

entry to the third user. O'Keeffe teaches, receiving from a third user a second bid request higher than the first bid request and transferring the at least one entry to the third user (page 7, col. 1, paragraph [0072]-col. 2, line 9).

Claim 17. Stronach failed to teach, The method of claim 1, wherein the activity is a sports activity. Gebb teaches, The method of claim 1, wherein the activity is a sports activity (col. 1, lines 31-38).

Claim 18. Stronach teaches wherein the activity is an entertainment activity (page 2, col. 2 [0043]-page 3, col. 1, line 13).

Claim 19. Stronach teaches, wherein the activity is a competition. Young teaches wherein the activity is a competition (page 3, col. 1 [0044]).

Claim 20. Stronach failed to teach, The method of claim 1, wherein the activity is a financial market activity. Gebb teaches, The method of claim 1, wherein the activity is a financial market activity (col. 2, lines 11-27).

Claim 21. Stronach teaches, wherein the activity is a tournament. Young teaches, wherein the activity is a tournament (page 6, col. 6 [0070] –page 7, col. 2, line 37).

Claim 22. Stronach failed to teach, wherein the activity is a single game. Gebb teaches, wherein the activity is a single game (col. 3, lines 20-34).

Claim 23. Stronach failed to teach, wherein the activity is a basketball tournament.

Gebb teaches, wherein the activity is a basketball tournament (col. 3, lines 34-42).

Claim 24. Stronach, Gebb and O'Keeffe failed to teach, The method of claim 1, wherein the activity is a political election. It would have been obvious to one having ordinary skill in the art at the time the invention was made that the activity is a political election and to modify in Stronach because such a modification would allow Stronach's system to support several different types of activities. It is well known by POSITA that a political election is considered an activity and something that can have tickets auctioned or a lottery for tickets to attend the political dinners, fundraisers, and the other political events surrounding the election.

Claim 25. Stronach teaches, The method of claim 1, further comprising: accepting payment for the entry from the first user (page 5, col. 1 [0062]-col. 2, line 3).

Claim 26. Stronach teaches, The method of claim 1, further comprising accepting confirmation of payment for the entry by the first user (page 8, col. 2 [0079]-page 9, col. 1, line 6 –col. 2 [0084]-page 11, col. 2 [0096]).

Claim 27. Stronach failed to teach The method of claim 1, further comprising using the computer systems the step of distributing all or a portion of the entries in a single bundle to one or more users. Gebb teaches, The method of claim 1, further comprising using the computer systems the step of distributing all or a portion of the entries in a single bundle to one or more users (col. 6, line 64-col. 7, line 12).

Claim 28. Stronach failed to teach The method of claim 27, wherein the single bundle is distributed prior to conducting the after-market trading of the first set of

entries. Gebb teaches, The method of claim 27, wherein the single bundle is distributed prior to conducting the after-market trading of the first set of entries (col. 8, lines 3-11).

Claim 29. Stronach failed to teach, The method of claim 27, wherein the single bundle is distributed after commencement of the after-market trading of the first set of entries. Gebb teaches, The method of claim 27, wherein the single bundle is distributed after commencement of the after-market trading of the first set of entries (col. 8, lines 12-43).

Claim 30. Stronach and Gebb failed to teach, The method of claim 1, wherein conducting the trading comprises receiving a short sell order from a first user and a buy order from a second user. O'Keefe teaches, The method of claim 1, wherein conducting the trading comprises receiving a short sell order from a first user and a buy order from a second user (col. 1, page 9 [0101]).

Claim 31. Stronach and Gebb failed to teach, The method of claim 1, wherein the trading comprises conducting at least one transfer of at least one entry. O'Keefe teaches, The method of claim 1, wherein the trading comprises conducting at least one transfer of at least one entry (col. 2, page 9 [0105]).

Claim 32. Stronach failed to teach, The method of claim 1, wherein the trading comprises conducting at least one sale of at least one entry. Gebb teaches, The method of claim 1, wherein the trading comprises conducting at least one sale of at least one entry (col. 8, lines 44-62).

Claim 33. Stronach failed to teach, The method of claim 1, wherein the the trading comprises conducting at least one short sale. Gebb teaches, The method of

claim 1, wherein the trading comprises conducting at least one short sale (col. 7, line 53-col. 8, line 29 –interpreted as short sale). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Stronach with the teachings of Gebb because such a modification would allow Stronach to have event tickets allocated to at least a distribution pool that can be distributed in accordance with a lottery distribution.

Claim 34. Stronach and Gebb failed to teach, the after- market trading comprises at least one auction. O'Keeffe teaches, the after- market trading comprises at least one auction (page 3, col. 2, paragraph [0032]).

Claim 35. Stronach and Gebb failed to teach, wherein the auction comprises an auction in which a payout of a certain minimum amount at a certain time is guaranteed to be made to the holder of a winning entry. O'Keeffe teaches, wherein the auction comprises an auction in which a payout of a certain minimum amount at a certain time is guaranteed to be made to the holder of a winning entry (page 4, col. 1, paragraph [0040]-[0041]).

Claim 36. this dependent claim is rejected for the similar rationale as given above for claim 35.

As for claims 34-36, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Stronach with the teachings of O'Keeffe because such a modification would allow Stronach to have event tickets allocated to at least a distribution pool that can be distributed in accordance with a lottery distribution.

Claim 37. Stronach and Gebb failed to teach, wherein the payout is money. O'keeffe teaches, wherein the payout is money (page 7, col. 2, paragraph [0078]-[0079]).

Claim 38. Stronach failed to teach, The method of claim 36, wherein the payout is a non-cash prize. Gebb teaches, The method of claim 36, wherein the payout is a non-cash prize (col. 7, line 53-col. 8, line 11).

Claim 39. Stronach failed to teach, The method of claim 36, wherein the payout comprises at least a portion of fees paid for the first set of entries during the distributing step. Gebb teaches, The method of claim 36, wherein the payout comprises at least a portion of fees paid for the first set of entries during the distributing step (col. 7, line 53-col. 8, line 43).

Claim 40. Stronach and Gebb failed to teach, wherein the payout is based on an amount of revenues generated by the distributing step. O'Keeffe teaches, wherein the payout is based on an amount of revenues generated by the distributing step (page 7, col. 2, paragraph [0079]-[0080]).

Claim 41. Stronach failed to teach, The method of claim 1, further comprising: using the computer system the step of receiving a commission or fee for the transfer of at least one entry. Gebb teaches, The method of claim 1, further comprising: using the computer system the step of receiving a commission or fee for the transfer of at least one entry (col. 7, line 53-col. 8, line 2).

Claim 42. Stronach failed to teach, The method of claim 1, wherein the trading begins as soon as at least one entry is distributed. Gebb teaches, The method of claim

1, wherein the trading begins as soon as at least one entry is distributed (col. 8, lines 12-22).

Claim 43. Stronach failed to teach, The method of claim 1, wherein the trading begins after all of the entries are distributed. Gebb teaches, The method of claim 1, wherein the trading begins after all of the entries are distributed (col. 8, lines 22-43).

Claim 44. Stronach failed to teach, The method of claim 1, wherein the trading begins after a predetermined number of entries are distributed. Gebb teaches, The method of claim 1, wherein the trading begins after a predetermined number of entries are distributed (col. 8, lines 44-67).

Claim 45. Stronach failed to teach, The method of claim 1, wherein the after-market trading is closed at a predetermined time. Gebb teaches, The method of claim 1, wherein the after-market trading is closed at a predetermined time (col. 8, lines 16-29).

Claim 46. Stronach failed to teach, The method of claim 1, wherein the trading is closed before the start of the activity Gebb teaches, The method of claim 1, wherein the trading is closed before the start of the activity (col. 7, lines 14-65).

Claim 47. Stronach failed to teach, The method of claim 1, wherein the trading is closed at the end of the activity. Gebb teaches, The method of claim 1, wherein the trading is closed at the end of the activity (col. 9, lines 1-24).

As for claims 37-47 it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Stronach because such a modification would allow Stronach to have event tickets for access to sporting events, plays, concerts, etc. either to hold the ticket(s) or to resell them in a lottery or auction.

Response to Arguments

Applicant's arguments with respect to claims 1-47 have been considered but are moot in view of the new ground(s) of rejection.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Wednesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

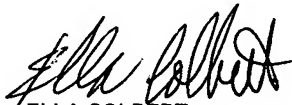
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Application/Control Number:
10/822,484
Art Unit: 3694

Page 14

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.
Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 12, 2007


ELLA COLBERT
PRIMARY EXAMINER